

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

MTI, INC., formerly Midwest Towers, Inc.,	)	
	)	
Plaintiff,	)	Case No. CIV-15-716 -R
	)	
v.	)	Removed from Grady County
	)	Case No. CJ-2015-110
	)	
EMPLOYERS INSURANCE COMPANY OF	)	
WAUSAU,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL OF CASE TO  
THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

Defendant Employers Insurance Company of Wausau (“Wausau”), by and through undersigned counsel, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 and Local Civil Rule (“LCvR”) 81.2, submits this Notice of Removal from Oklahoma State Court, Grady County District Court, to the United States District Court for the Western District of Oklahoma, the judicial district in which this action is pending.

In support of this Notice of Removal, Wausau states as follows:

1. On May 29, 2015, Plaintiff MTI, Inc., formerly known as Midwest Towers, Inc. (“MTI”) filed a Complaint (“Complaint” attached as Exhibit 2) in Grady County District Court, State of Oklahoma, which was assigned Case No. CJ-15-110 and in which Wausau is named as the only Defendant.

2. MTI served the Summons and Complaint via certified mail on the Oklahoma Insurance Commissioner, who is Wausau’s statutory agent pursuant to Okla. Stat. tit. 36, § 621. The Oklahoma Insurance Commissioner received the Summons and Complaint on June 10, 2015.

3. In accordance with Okla. Stat. tit. 36, § 622, on June 12, 2015 the Oklahoma Insurance Commissioner forwarded a copy of the Summons and Complaint via certified mail to Wausau's registered agent, Corporation Service Company ("CSC").

4. Wausau's registered agent CSC received the Summons and Complaint on June 10, 2015.

5. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings and orders filed to date in this action are attached as Exhibits 2-5.

6. In accordance with LCvR 81.2(a), a copy of the state court docket sheet is attached as Exhibit 1.

7. As alleged in this action, Plaintiff MTI is an Oklahoma corporation with its principal place of business in Chickasha, Oklahoma. (¶ 1, Exhibit 2).

8. Wausau is a Wisconsin corporation with its principal place of business in Wausau, Wisconsin. Therefore, there is complete diversity of citizenship between MTI and Wausau.

9. The action seeks monetary damages against Wausau arising from MTI's request for insurance coverage for a claim made against MTI regarding MTI's alleged negligent and faulty work on a Cooling Tower owned and operated by Western Farmers Electric Cooperative ("Western") under an insurance policy issued by Wausau. (¶¶ 4-5, Exhibit 2).

10. The Complaint alleges that MTI entered into a settlement agreement with Western whereby MTI paid \$350,000 of its own money for the Incident. MTI seeks insurance coverage from Wausau for that amount. (¶¶ 8-11, Exhibit 2). Additionally, MTI seeks reimbursement of its attorney fees associated with seeking insurance coverage from Wausau for the Incident (¶ 11,

Exhibit 2), as well as statutory interest, reasonable attorney fees, and the costs associated with this action. (¶¶ 12-13, Exhibit 2).

11. Based upon the allegations and the relief sought in the Complaint, the damages sought in this case exceed \$75,000. (See ¶ 11, Exhibit 2).

12. Wausau disputes that MTI is entitled to insurance coverage for the settlement amount paid by MTI, and Wausau disagrees with MTI's mischaracterization of Wausau's prior investigation and communications with MTI about the claim. However, based upon MTI's allegations in its Complaint, this action places at issue and in controversy damages which well exceed this Court's original jurisdictional minimum of \$75,000, exclusive of interest and costs.

13. Accordingly, pursuant to 28 U.S.C. § 1332(a), this Court has original jurisdiction over this civil action in that it involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Thus, removal is proper in accordance with 28 U.S.C. § 1441(a).

14. Wausau has not filed any responsive pleadings in this action to date.

15. As required by 28 U.S.C. § 1446(b), this Notice of Removal is being filed within 30 days after service.

16. Concurrently with the filing of this Notice of Removal, by means of the Notice of Filing Notice of Removal filed in the state court action and attached hereto as Exhibit 6, Wausau is providing notice to MTI and to the Grady County Clerk of Court of this (a) Notice of Removal; (b) the fact that this action is to be docketed in this Court; and (c) that this Court shall hereafter be entitled to grant all relief to Wausau as is proper under the circumstances.

17. Wausau reserves the right to supplement or amend this Notice of Removal if it becomes necessary to do so.

WHEREFORE, Wausau requests that this action proceed in this Court as a removed claim or cause of action under 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted,

**FRANDEN | FARRIS | QUILLIN  
GOODNIGHT + ROBERTS**

/s/Joseph R. Farris

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF MAILING**

I hereby certify that on the 1<sup>st</sup> day of July, 2015, a true and correct copy of the above and foregoing was mailed, properly addressed and postage fully prepaid to:

Mort H. Welch  
WELCH & SMITH  
6440 Avondale Drive, Suite 206  
Oklahoma City, OK 73116

F. Thomas Cordell  
FRAILEY, CHAFFIN, CORDELL, PERRYMAN  
STERKEL, McCALLA & BROWN  
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P.O. Box 533  
Chickasha, OK 73023

/s/Joseph R. Farris

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